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April 15, 2008

Honorable Lisa Margaret Smith, US Magistrate Judge
United States District Court
300 Quarropas Street
White Plains, New York 10601

Re: United States v. Oscar Lemus
Docket No. S207 CR 732 (SCR)(LMS)
Sentence Date: May 15, 2008

Honorable Madam:

Kindly accept the instant correspondence as objections to the pre-sentence investigation report in the above-captioned matter.

More specifically, defendant objects to the adjusted offense level of nine (Part A, paragraph 24) as well as the finding that the guidelines range for imprisonment is four to ten months (see Part D at paragraph 53).

It is respectfully submitted that the offense level should have been decreased by three levels pursuant to USSG §2L2.1(b)(1) for an adjusted offense level of six and that as a result the sentence guidelines range should be zero to six months.

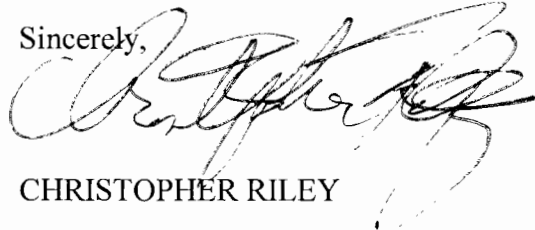
At the time of the plea, the parties entered into a written Stipulation whereby “the parties agree that the defendant did not receive or expect to receive payment in connection with the offense charged in the Information.” It is respectfully submitted that all the evidence indicates that the defendant accompanied a friend who, unknown to defendant, was a confidential informant. He did not seek any profit relative to the instant offense. Under such circumstances even where it was a felony charge unlike the misdemeanor herein it has been stated that:

The guideline for a violation of 18 USC§1028(f) is found in §2L2.1, which provides for a base offense level of eleven. USSG §2L2.1(a).

Because the offense was committed other than for profit, in that the defendant did not receive money, but was only assisting another individual, the offense level is decreased by three levels. USSG §2L2.1(b)(1). *US v. Russell*, 2006 WL 2850215(SDNY 2006).

It is therefore respectfully submitted that the proper guideline offense level is six with a guideline sentence range of zero to six months.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christopher Riley', is written over the typed name.

CHRISTOPHER RILEY

CR/lm

cc: Assistant United States Attorney
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